

REMARKS

Applicant respectfully requests consideration of the subject application. This Response is submitted in response to the Office Action mailed November 26, 2009. Claims 1-26 are pending. Claims 1-26 are rejected. In this Amendment, claims 1, 7, 13, 16, 19, and 22 have been amended. No new matter has been added.

35 U.S.C. § 103 Rejections

The Examiner has rejected claims 1-26 under 35 U.S.C. § 103(a) as being unpatentable over Davis et al., (U.S. Patent No.: 6,269,361, hereinafter “Davis”) in view of Canali et al. (U.S. Patent No.: 7,272,579, hereinafter “Canali”).

The combination of Davis and Canali fail to teach or suggest that the monetary amount of bids for one item can be combined. The objective of Canali is volume discounting: “In the system of FIG. 1, for example, consumers will be able to combine requests for purchase of goods and services from a plurality of vendors to obtain volume discounts.” *Canali*, col. 8, lines 29-32. “The embodiment includes a supply and demand based transaction model. Volume based discounting is correlated with supply and demand. The embodiment is based on a bilateral buyer driven process which may be utilized by organizations that would like to purchase significant amounts of goods or services at the lowest possible price or best value.” *Id.*, col. 8, lines 53-59.

To achieve the volume discounting of Canali, the bids of vendors are combined. For example, “in the method 2100, the first machine includes a first computer operated by a potential consumer, the second machine includes a second computer operated by a first potential vendor, and the third machine includes a third computer operated by a second potential vendor.” *Id.*, col. 16, lines 63 - 68. “In block 2115, the method 2100 receives, through the network, a first bid from the second machine and a second bid from the third machine, the first bid and the second bid being based on the request for the item. In block 2120, the method 2100 determines a third bid, the third bid being based on (i) the first bid and (ii) the second bid. The method 2100 may also receive, through the network, the third bid from at least one of (i) the second machine and (ii) the third machine.” *Id.*, col. 16, lines 53-62.

Thus, Canali discloses the combining of bids to increase the number of items purchased so that a volume discount price for the items may be received. However, Canali does not teach or suggest combining bids so that the monetary amount of a bid for one item increases. Claim 1 includes the limitation that a secondary bid from the secondary bidder increases a monetary amount of one of the primary bids of one of the primary bidders. In this way, the retailer and the manufacturer of claim 1 work together to achieve a higher price for a bid. This is fundamentally different from Canali, where the bids of vendors are combined to achieve a volume discount for purchased items. As such, Canali fails to teach or suggest at least this limitation of claim 1. Davis fails to overcome this deficiency as it is directed to a forward auction and fails to teach or suggest combining bids.

Hence, the combination of Davis in view of Canali fails to teach each and every element of the claim 1. Independent claims 7, 13, 16, 19, and 22 include language similar to claim 1 and are patentable over Davis in View of Canali for at least the reasons provided above with regard to claim 1. Claims 2-6, 8-12, 14, 15, 17, 18, 20, 21, and 23-26 are dependent on claims 1, 7, 13, 16, 19, and 22 and are patentable over Davis in view of Canali for at least the reasons provided above with regard to claims 1, 7, 13, 16, 19, and 22.

Therefore, for at least the reasons provided above, the present claims are patentable over the combination of Davis and Canali. Applicant respectfully submits that the present application is in condition for allowance. Applicant, accordingly, respectfully requests withdrawal of the rejections under 35 U.S.C. § 103.

Please charge any shortages and credit any overages to Deposit Account No. 19-3140. Any necessary extension of time for response not already requested is hereby requested. Please charge any corresponding fee to Deposit Account No. 19-3140.

Respectfully submitted,
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Date: February 26, 2009

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